

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to the application of chemicals to public waters

The Natural Resource Commission (Commission) hereby amends Chapter 54, “Restrictions on Introduction and Removal of Plant Life,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455A.5(6) and chapters 461A and 462A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 455A, 461A and 462A.

Purpose and Summary

This rule making allows cities and counties to apply chemicals to public waters, as defined by rule 571—13.3(455A,461A), for the removal of aquatic plants for navigational and recreational purposes. This application will be subject to a permit issued by the Department of Natural Resources (Department) and a Department-approved vegetation management plan. Currently, only Department staff may apply chemicals for plant control for navigational or recreational purposes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4920C**. Five public hearings were held across the state on March 5, 2020. Attendance at the public meetings was low, and most of the comments were received by email.

A news release was issued on February 12, 2020, soliciting public comment on the proposed rule making and inviting the public to participate in the five public hearings being held. This news release was sent to approximately 400 news outlets in Iowa, along with about 28,500 subscribers to *Iowa Outdoor News* and 105,800 subscribers to *Fishing News*. Eleven public comments were received. Ten supported this rule making, while one expressed concern that removal of aquatic vegetation pursuant to the new provision could negatively impact fishing.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on May 14, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 22, 2020.

The following rule-making action is adopted:

Amend subrule 54.5(1) as follows:

54.5(1) Permits.

a. The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule, and ~~rules in~~ 567—Chapter 66, as may be required, for such activities.

c. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation for certain recreation and navigation purposes, including boating, fishing, and swimming. However, such cities and counties shall be required to obtain a permit under this rule, and 567—Chapter 66 as may be required, for such activities. Additionally, all such use of chemicals shall be conducted by a certified aquatic applicator and shall be subject to the terms of a vegetation management plan approved by the director. Issuance of such permits and approval of a vegetation management plan shall be at the sole discretion of the department.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/17/20.